

Serial No. 10/590,913 Docket No. 1006/0143PUS1
Reply to Office Action dated October 27, 2009

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REMARKS/ARGUMENTS

Favorable reconsideration and allowance of the present application is respectfully requested. Claims 1 and 3-26 are pending in the above application with claims 1 and 25 being independent. By the above amendment, claims 25 and 26 have been added, and claim 2 has been cancelled without prejudice.

The Office Action dated October 27, 2009, has been received and carefully reviewed. In that Office Action, objections were raised in connection with the abstract of the disclosure, specification and drawings. In addition, claims 1-24 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite, claims 1, 2, 5, 7-12, 14, 15 and 17-24 were rejected under 35 U.S.C. 102(b) as being anticipated by Johnson, claims 3, 4, 13 and 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Engel, and claim 6 was rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Iritani. Each of these issues is addressed below, and reconsideration and allowance of claims 1 and 3-26 are respectfully requested in view of the above amendments and the following remarks.

DRAWING OBJECTION

Figure 5c was objected to for not including a legend such as "prior art." Submitted herewith is a replacement drawing sheet on which Figure 5c is designated "conventional art." The withdrawal of the drawing objection is respectfully requested in view of this amendment.

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SPECIFICATION

The abstract was objected to for including phrases that could be implied and for including legal terminology. Both of these issues are addressed by the replacement abstract of the disclosure submitted herewith.

The specification has been amended to include section headings and to remove a discussion of the claims at page 1.

The brief descriptions of Figures 6a and 6b have been revised to remove the reference to "prior art."

The withdrawal of the objections to the specification is respectfully requested in view of the foregoing amendments and remarks.

CLAIM REJECTIONS UNDER 35 U.S.C. 112, SECOND PARAGRAPH

Claim 1 was rejected on the ground that the word "partially" is a relative term. By the above amendment, one instance of the term "partially" has been deleted from claim 1. It is respectfully submitted that the phrase "routed at least partially along a predetermined path" is not indefinite. This phrase indicates that at least some of the gaseous medium is routed along a predetermined path. All the gaseous medium or less than all the gaseous medium may be so routed, but no determination of relative amounts need be made. Terms such as "heavy" or "large" may be indefinite because they only have meaning relative to some other weight or size. "Partially" means less than fully, and no further standard of comparison is necessary. For these reasons, it is respectfully submitted that "partially" is used in a definite manner in claim 1, and the rejection of claim 1 under 35 U.S.C. 112, second paragraph, is respectfully traversed.

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The term "essentially" has been removed from the claims.

The issue of narrow limits within broad limits has been addressed by removing either the narrow limit or the broad limit from each of the identified claims.

The terms "preferably" and "considerably" have been removed from claims 7 and 13, respectively. The phrase "or the like" has been removed from claim 17.

CLAIM REJECTIONS UNDER 35 U.S.C. 102(b)

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Johnson. Claim 1 as amended recites, inter alia, a constructional unit for a heat exchanging device with at least one housing, at least one first heat exchanging device and at least one second heat exchanging device. The constructional unit also includes a first regulating device which can be set in at least two different positions such that in a first position substantially no fractions of the gaseous medium are routed through the first heat exchanging device and in the second position substantially no fractions of the gaseous medium are routed through the second heat exchanging device. Furthermore, the at least one first heat exchanging device and the at least one second heat exchanging device are both located within a volume defined by a convex polyhedron, said volume lying entirely inside said housing. Johnson shows first and second heat exchanging devices located in separate ducts. As such, these first and second heat exchanging devices are not both located within a volume defined by a convex polyhedron that lies entirely inside a housing as now recited in claim 1. Claim 1 as amended is submitted to be allowable over Johnson for at least this reason.

Claims 3-24 depend from claim 1 and are submitted to be allowable for at least

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the same reasons as claim 1.

CLAIM REJECTIONS UNDER 35 U.S.C. 103(a)

Claims 3, 4, 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Engel. Claims 3, 4, 13 and 16 depend from claim 1. Engel does not address the shortcomings of Johnson discussed above in connection with claim 1. Claims 3, 4, 13 and 16 are therefore submitted to be allowable for at least the same reasons as claim 1.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Iritani. Claim 6 depends from claim 1. Iritani does not address the shortcomings of Johnson discussed above in connection with claim 1. Claim 6 is therefore submitted to be allowable for at least the same reasons as claim 1.

NEW CLAIMS

New claims 25 and 26 are also submitted to be allowable over the art of record. Claim 25 recites a constructional unit for a heat exchanging device comprising, inter alia, a housing, at least one first heat exchanging device having a flow path therethrough and at least one second heat exchanging device having a flow path therethrough. The at least one first heat exchanging device flow path and the at least one second heat exchanging device flow path are located in the housing within a volume defined by a convex polyhedron, the volume lying entirely inside the housing. The device also includes a movable flap configured to influence a direction of flow of the gaseous medium, the flap being movable between a first position in which flow of

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the gaseous medium through the at least one first heat exchanging device is substantially blocked and a second position in which flow of the gaseous medium through the at least one second heat exchanging device is substantially blocked. Johnson shows two heat exchange devices in two separate ducts and does not satisfy at least the limitation of the two heat exchange devices being located in a volume defined by a convex polyhedron inside a housing as recited in claim 25. Claim 26 depends from claim 25 and is submitted to be allowable for at least the same reasons as claim 25.

CONCLUSION

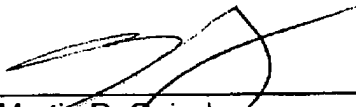
Each issue raised in the Office Action dated October 27, 2009, has been addressed, and it is believed that claims 1 and 3-26 are in condition for allowance. Wherefore, reconsideration and allowance of these claims is earnestly solicited. If the examiner believes that any additional changes would place the application in better condition for allowance, the examiner is invited to contact the undersigned attorney at the telephone number listed below.

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Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-3828 and please credit any excess fees to such deposit account.

Respectfully submitted,



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